

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION	:
	:
Plaintiff,	:
	:
v.	:
	:
DOYLE SCOTT ELLIOTT,	:
SCOTT ELLIOTT, INC.,	:
MICHAEL J. XIRINACHS,	:
EMERALD ASSET ADVISORS LLC,	:
ROBERT L. WEIDENBAUM, and	:
CLX & ASSOCIATES INC.,	:
	:
Defendants,	:
-----X	

No. 09-CV-07594-KBF-THK

**PLAINTIFF UNITED STATES SECURITIES AND EXCHANGE
COMMISSION'S APPLICATION FOR AN ORDER TO SHOW CAUSE DIRECTING
PATRICIA JACKSON TO SET FORTH HER CLAIMS TO THE PROCEEDS FROM
THE SALE OF THE VERMONT PROPERTY**

Plaintiff, United States Securities and Exchange Commission (the "Commission") moves the Court for an Order to show cause order directing Patricia Jackson to set forth her claims to the property located at 4 Stonehouse Road, Winhall, Vermont ("Vermont Property"), and order the disposition of the Vermont Property proceeds according to each parties' respective priority pursuant to the Courts inherent equitable authority to issue a variety of ancillary relief measures in actions brought by the SEC to enforce the federal securities laws.¹

BACKGROUND

At the hearing on October 2, 2015, Xirinachs agreed to allow the Commission to sell the Vermont Property, among other things, to resolve the Commission's contempt proceeding. (Dkt.

¹ The Commission has served Michael J. Xirinachs with this letter, because Matthew Levine advised that he no longer represents Mr. Xirinachs, and that he did not intend to file a motion to seek leave to withdraw as counsel.

No. 198). On October 9, the Court appointed David R. Maltz to sell the Vermont Property. (Dkt. No. 199).² On December 17, 2015, the Liquidation Agent conducted the auction sale of the Vermont Property in accordance with the applicable Terms and Conditions of Sale. Tal Keshet made the highest bid for the Vermont Property in the amount of \$510,000 (plus a 6% buyer's premium in the amount of \$30,600).

On January 11, 2016, Xirinachs moved to amend the Liquidation Agent's Motion for Approval of the Sale to seek to have his personal expenses paid from the sale proceeds. (Dkt. No. 215). On January 22, 2016, the Court denied Xirinachs' request and Confirmed the Sale of the Vermont Property. (Dkt. Nos. 217 and 218). This motion is supported by the Declaration of Michael J. Roessner and exhibits attached thereto, and the foregoing:

REQUEST FOR ORDER TO SHOW CAUSE

On January 19, 2016, Xirinachs' ex-wife Patricia Jackson filed liens totaling approximately \$110,000 against Michael J. Xirinachs with the Winhall Town Clerk's Office, which apparently clouded title on the Vermont Property. While the liens do not presently attach to the Vermont Property, which is owned by Michael W. Xirinachs, and are clearly inferior to the Commission's June 2015 lien, the Liquidation Agent has been unable to convey clear title to the Vermont Property to the purchaser. The Commission has been advised that the Liquidation Agent cannot convey clear title, unless Ms. Jackson's liens are removed from the Vermont Property.

The Commission respectfully requests that the Court issue the proposed Order to Show Cause requiring Patricia Jackson to set forth her claim to the proceeds from the sale of the Vermont Property, and order the disposition of the Vermont Property proceeds according to each

² On December 23, 2015, Richard Maltz was appointed as the substitute liquidation agent. (Dkt. No. 209).

parties' respective priority.³ To avoid delaying the closing until the Court is able to decide the Commission's application, the Commission further requests that the Court order that the sale of the Vermont Property close and that the proceeds from the sale be deposited in the Liquidation Agent's account until further order of this Court. The proceeds from the sale exceed the amount of Patricia Jackson's claim, so her claim is protected and can be fully satisfied from the sale proceeds from the Vermont Property.

Dated: February 10, 2016

Washington, D.C.

Respectfully submitted,

s/MICHAEL J. ROESSNER

Michael J. Roessner

Attorney for Plaintiff

United States Securities and Exchange Commission

100 F Street, N.E., Mail Stop 5985

Washington, D.C. 20549

Tel: (202) 551-4347

Fax: (703) 813-9366

Email: RoessnerM@SEC.gov

³ *SEC v. Haligiannis*, 608 F. Supp.2d 444 (2009) (S.D.N.Y. 2009).

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2016, I caused service of the foregoing document captioned, UNITED STATES SECURITIES AND EXCHANGE COMMISSION'S MOTION FOR AN ORDER TO SHOW CAUSE, by filing through the Court's ECF system on the following:

Law Offices of Matthew L. Levine, PLLC
565 Fifth Avenue, 7th Floor
New York, NY 10017
(212) 880-9517
matt@matthewlevinelaw.com

Leslie S. Barr
Windels Marx Lane & Mittendorf, LLP
156 West 56th Street, New York, New York 10019
lbarr@windelsmarx.com
Counsel for Richard Maltz

And also caused service by email and overnight mail on the following:

Michael J. Xirinachs
30 Baycrest Drive
Huntington, New York
xirinachsm@yahoo.com

Patricia Jackson
7244 Orchid Island Pl.
Bradenton, Florida 34202
jacksonp118@yahoo.com

Adam Schwartz
Fidelity National Title Insurance Company
485 Lexington Avenue, 18th Floor
New York, NY 10017
212-471-3833 (Direct)
adam.schwartz@fnf.com
Counsel for Fidelity National Title Insurance Company

s/MICHAEL J. ROESSNER
Michael J. Roessner